

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Crl. Appeal S-4366-SB of 2016

Date of Decision : July 12, 2017

Kuldeep

.....Appellant

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Ms. Garima Sharma, Advocate
for the appellant.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S. MANN, J. (Oral)

The appellant alongwith five others was tried for committing offences punishable under Sections 395 and 506 IPC. He was also tried for committing the offence punishable under Section 25 of the Arms Act. Vide judgment and order dated 27.10.2016, learned Additional Sessions Judge, Bhiwani, acquitted the appellant and his five co-accused of the charges under Sections 395 and 506 IPC. However, the appellant was held guilty for committing offence under Section 25 of the Arms Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of three months. The period already undergone by him in

custody during the trial was ordered to be set off against the substantive sentence awarded to him.

Aggrieved of his conviction and sentence, the appellant filed the present appeal, which was admitted on 15.2.2017. Subsequently, the appellant moved an application for suspension of his sentence of imprisonment, which came up for hearing before a co-ordinate Bench of this Court on 17.5.2017, when learned counsel for the appellant submitted that he would be satisfied if the appeal itself was disposed of by reducing the sentence to the period already undergone by him. On the adjourned date, the Bench while observing that the offence under Section 25(1B)(a) of the Arms Act provided minimum sentence of one year, which could be reduced to a term less than one year, in case, the appellant succeeded in pointing out special and adequate reasons and as no special reasons were pointed out, held that his sentence could not be reduced to less than one year.

Learned counsel for the appellant submits that the appellant could not apprise this Court on the earlier occasion that though he was said to be armed with a pistol and pointed the same towards the occupants of Tata 909 Canter yet he had not fired at them. Further, the appellant has aged parents and there is none in his family to look-after them. It has also been

stated that the appellant is a first offender. Under these circumstances, there are adequate and special reasons to reduce the sentence to a term less than one year.

Learned State counsel has pointed out that the appellant was present at the time of the occurrence and he was armed with a pistol, which he had pointed towards the occupants of the vehicle, in which, the complainant party was proceeding from Sikar to Ambala. It has also been submitted that apart from the present case, the appellant is involved in eight other cases. In one of them, he stands acquitted whereas in the remaining seven, he is still facing the trial. Learned State counsel, however, could not dispute the fact that the appellant is the only person in his family, who could look-after his aged parents.

Custody certificate has already been brought on record by the learned State counsel, as per which, the appellant had undergone total sentence of eight months and twenty five days as on 3.5.2017 and as the appellant continues to remain behind the bars even thereafter, he has already undergone total sentence of more than eleven months. It has also been mentioned therein that the appellant is facing trial in seven other cases and acquitted in the eighth case. As of date, he is not shown to be convicted in any other case apart from the present case.

In view of the above, it can safely be held that there are special and adequate reasons to reduce the sentence of imprisonment imposed upon the appellant to a term less than one year.

Resultantly, the conviction of the appellant under Section 25 of the Arms Act is upheld. However, his substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained.

July 12, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No